

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHRISTOPHER J. MILLER,)	Case No.: 1:20-cv-01117-AWI-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF'S MOTION
v.)	TO COMPEL
)	
SERGEANT M. SOTO,)	(ECF No. 48)
)	
Defendant.)	
)	

Plaintiff Christopher Miller is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's motion to compel, filed April 21, 2022.

I.

RELEVANT BACKGROUND

This action is proceeding on Plaintiff's retaliation claim against Defendant Soto.

Defendant filed an answer to the complaint on March 29, 2021. After an unsuccessful settlement conference, the Court issued the discovery and scheduling order June 2, 2021.

As previously stated, on April 21, 2022, Plaintiff filed the instant motion to compel. Defendant filed an opposition on May 2, 2022, and Plaintiff did not file a reply. Local Rule 230(l).

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1 **II.**

2 **LEGAL STANDRD**

3 Plaintiff is proceeding pro se and he is a state prisoner challenging his conditions of
 4 confinement. As a result, the parties were relieved of some of the requirements which would
 5 otherwise apply, including initial disclosure and the need to meet and confer in good faith prior to
 6 involving the Court in a discovery dispute. Fed. R. Civ. P. 26(a)(1); Fed. R. Civ. P. 26(c); Fed. R. Civ.
 7 P. 37(a)(1); Local Rules 240, 251; ECF No. 35. Further, where otherwise discoverable information
 8 would pose a threat to the safety and security of the prison or infringe upon a protected privacy
 9 interest, a need may arise for the Court to balance interests in determining whether disclosure should
 10 occur. See Fed. R. Civ. P. 26(c); Seattle Times Co. v. Rhinehart, 467 U.S. 20, 35 n.21 (1984) (privacy
 11 rights or interests implicit in broad purpose and language of Rule 26(c)); Burlington N. & Santa Fe
 12 Ry. Co. v. United States Dist. Court for the Dist. of Montana, 408 F.3d 1142, 1149 (9th Cir. 2005)
 13 (discussing assertion of privilege); Soto v. City of Concord, 162 F.R.D. 603, 616 (N.D. Cal. 1995)
 14 (recognizing a constitutionally-based right of privacy that can be raised in discovery); see also Garcia
 15 v. Clark, No. 1:10-CV-00447-LJO-DLB PC, 2012 WL 1232315, at *6 n.5 (E.D. Cal. Apr. 12, 2012)
 16 (noting inmate's entitlement to inspect discoverable information may be accommodated in ways which
 17 mitigate institutional safety concerns); Robinson v. Adams, No. 1:08-cv-01380-AWI-BAM PC, 2012
 18 WL 912746, at *2-3 (E.D. Cal. Mar. 16, 2012) (issuing protective order regarding documents
 19 containing information which implicated the safety and security of the prison); Orr v. Hernandez, No.
 20 CV-08-0472-JLQ, 2012 WL 761355, at *1-2 (E.D. Cal. Mar. 7, 2012) (addressing requests for
 21 protective order and for redaction of information asserted to risk jeopardizing safety and security of
 22 inmates or the institution if released); Womack v. Virga, No. CIV S-11-1030 MCE EFB P, 2011 WL
 23 6703958, at *5-6 (E.D. Cal. Dec. 21, 2011) (requiring defendants to submit withheld documents for in
 24 camera review or move for a protective order).

25 However, this is a civil action to which the Federal Rules of Civil Procedure apply. The
 26 discovery process is subject to the overriding limitation of good faith, and callous disregard of
 27 discovery responsibilities cannot be condoned. Asea, Inc. v. Southern Pac. Transp. Co., 669 F.2d
 28 1242, 1246 (9th Cir. 1981) (quotation marks and citation omitted). "Parties may obtain discovery

1 regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to
2 the needs of the case, considering the importance of the issues at stake in the action, the amount in
3 controversy, the parties' relative access to relevant information, the parties' resources, the importance
4 of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery
5 outweighs its likely benefit." Fed R. Civ. P. 26(b)(1).

6 Generally, if the responding party objects to a discovery request, the party moving to compel
7 bears the burden of demonstrating why the objections are not justified. Grabek v. Dickinson, No. CIV
8 S-10-2892 GGH P, 2012 WL 113799, at *1 (E.D. Cal. Jan. 13, 2012); Womack, 2011 WL 6703958, at
9 *3; Mitchell v. Felker, No. CV 08-119RAJ, 2010 WL 3835765, at *2 (E.D. Cal. Sep. 29, 2010); Ellis
10 v. Cambra, No. 1:02-cv-05646-AWI-SMS PC, 2008 WL 860523, at *4 (E.D. Cal. Mar. 27, 2008).
11 This requires the moving party to inform the Court which discovery requests are the subject of the
12 motion to compel, and, for each disputed response, why the information sought is relevant and why
13 the responding party's objections are not meritorious. Grabek, 2012 WL 113799, at *1; Womack,
14 2011 WL 6703958, at *3; Mitchell, 2010 WL 3835765, at *2; Ellis, 2008 WL 860523, at *4.
15 However, the Court is vested with broad discretion to manage discovery and notwithstanding these
16 procedures, Plaintiff is entitled to leniency as a pro se litigant; therefore, to the extent possible, the
17 Court endeavors to resolve his motion to compel on its merits. Hunt v. County of Orange, 672 F.3d
18 606, 616 (9th Cir. 2012); Survivor Media, Inc. v. Survivor Productions, 406 F.3d 625, 635 (9th Cir.
19 2005); Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002).

20 III.

21 DISCUSSION

22 Plaintiff seeks an order compelling Defendant to produce documents in response to his request
23 for production of documents, set number one.

24 Defendant opposes Plaintiff's motion and argues the motion should be denied based upon the
25 objections made in response and based upon the official information privilege.

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2 Request No. 1: “Copies of all relevant documents such as policy statements, guidelines,
3 incident reports or other written materials made at Valley State Prison relevant to Defendant’s
4 participation in any discussions, incidents or investigation regarding Plaintiff.” (ECF No. 49-1, at 5.)

5 Defendant objected and responded as follows:

6 Objection. The request, as phrased, is overbroad in scope and in time. Plaintiff’s operative
7 complaint against Defendant alleges claims for First Amendment retaliation based on the
8 confiscation of Plaintiff’s personal property items in 2019 and the issuance of two allegedly
9 false Rules Violation Reports in 2019. As a result, documents related to “Defendant’s
10 participation in any discussions, incidents or investigation regarding Plaintiff” either before or
11 after 2019 are irrelevant to any claims or defenses in this action. Similarly, documents related
12 to “Defendant’s participation in any discussions, incidents or investigation regarding Plaintiff”
13 that have no connection to events at issue in Plaintiff’s lawsuit are likewise irrelevant.
14 Moreover, production of such records would cause undue burden and expense and is not
15 proportional to the needs of the case. Fed. R. Civ. Pro. 26(b)(1).

16 Furthermore, this request is vague, ambiguous and unintelligible without further definition
17 of the terms “relevant”, “incidents” and “investigation”. It is unclear what documents Plaintiff
18 deems “relevant”. It is further unclear if the term “incidents” is intended to include any event
19 involving Plaintiff, or something else entirely. It is likewise unclear if the term “investigation”
20 is intended to include any particular investigation or any investigative activities related to any
21 event whatsoever. The request is also vague, ambiguous and unintelligible because it is unclear
22 what policy statements or guidelines may be responsive to this request.

23 Moreover, the request, as phrased, seeks attorney work-product because it in effect asks for
24 defense counsel’s opinions or impressions what is “relevant”. The request is also compound
25 because it seeks multiple documents within one request. To the extent that this request seeks
26 any confidential CDCR documents related to any investigations that involve the Plaintiff, such
27 documents are protected from disclosure pursuant to the official information privilege and will
28 not be produced. (*see* Declaration of Litigation Coordinator H. Castro.)

(ECF No. 49-1 at 5-6.)

22 **Ruling:** Plaintiff’s motion to compel a further response to Request No. 1 shall be denied.
23 Defendant’s objections are sustained. As to scope, the request is overbroad and over burdensome in
24 that it seeks “all relevant documents,” which could refer to an enormous universe of documents. As
25 to time, the request is overbroad in that it seeks documents over a span of several years and it is not
26 limited to the time frame as alleged in the complaint. Moreover, the request is vague and ambiguous
27 as to the request for records of “relevant”, “incidents”, and “investigations.” Finally, the request is
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1 both overbroad and over burdensome because it does not specify which, if any, of these incidents he
2 requests records related to and does not specify that the records sought are related to any of these
3 incidents. Defendant cannot be expected to guess at what records Plaintiff seeks. Accordingly,
4 Plaintiff's motion to compel is denied.

5 Request No. 2: "Defendants should offer names of any other knowledgeable or responsible
6 persons relevant." (ECF No. 49-1 at 6.)

7 Defendant objected and responded as follows: "This request is improper pursuant to the
8 Federal Rule of Civil Procedure (FRCP) 34 because it improperly seeks identification of witnesses
9 instead of production or inspection of documents. This request also violates FRCP 34 because it does
10 not describe with reasonable particularity each item or category of items to be produced or inspected.
11 Moreover, as phrased, this request is vague, ambiguous and unintelligible without further definition of
12 the terms 'knowledgeable', 'responsible' and 'relevant'. Accordingly, Defendant is unable to respond
13 to this request, as phrased."

14 **Ruling:** Plaintiff's motion to compel shall be denied. Pursuant to Federal Rule of Civil
15 Procedure 34, a "party may serve on any other party a request within the scope of Rule 26(b)" for
16 production of documents "in the responding party's possession, custody, or control." Fed. R. Civ. P.
17 34(a). The requesting party "is entitled to individualized, complete responses to each of the [Requests
18 for Production] ..., accompanied by production of each of the documents responsive to the request,
19 regardless of whether the documents have already been produced." Louen v. Twedt, 236 F.R.D. 502,
20 505 (E.D. Cal. 2006). Here, Defendant's objections are sustained. This request is improper because it
21 seeks identification of witnesses instead of production or inspection of documents . In addition, the
22 request does not describe with reasonable particularity each item or category of items to be produced
23 or inspected. Lastly, the request is vague, ambiguous and unintelligible as to the terms
24 "knowledgeable", "responsible", and "relevant." Accordingly, Plaintiff's motion to compel is denied.

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IV.
ORDER

Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion to compel (ECF No. 48), filed on April 21, 2022, is DENIED.

IT IS SO ORDERED.

Dated: May 27, 2022


UNITED STATES MAGISTRATE JUDGE